

## **ATTACHMENT B**

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Attorneys for Defendant  
GOOGLE INC.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

**IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION**

**Master Docket No. 11-CV-2509-LHK**

**THIS DOCUMENT RELATES TO:**

**DECLARATION OF STEVEN M.  
PERRY IN SUPPORT OF  
DEFENDANTS' SUPPLEMENTAL  
BRIEF IN CONNECTION WITH  
PLAINTIFFS' MOTION FOR  
APPLICATION OF THE PER SE  
STANDARD**

## ALL ACTIONS

Judge: Hon. Lucy H. Koh  
Date: December 19, 2014  
Time: 1:30 p.m.  
Ctrm: 8

1 I, STEVEN M. PERRY, hereby declare and say:

2 1. I am a member of Munger, Tolles & Olson LLP, counsel of record for Intel  
3 Corporation (“Intel”) in this case. I am admitted to practice before this Court. I make this  
4 declaration in support of Defendants’ Supplemental Brief in Connection with Plaintiffs’  
5 Motion for Application of the Per Se Standard. I have personal knowledge of the matters  
6 set forth herein and could and would testify competently to each of them.

7 2. I submit this declaration in order to place before the Court a true copy of  
8 exhibit 454 to Paul Otellini’s deposition in this matter. We had included Mr. Otellini’s  
9 deposition testimony about exhibit 454 as part of exhibit I to the Corrected Declaration of  
10 Steven M. Perry in Support of Intel Corporation’s Motion for Summary Judgment  
11 (Dkt 690-1 at 130-131 and 140-141), but had neglected to include a copy of the exhibit  
12 itself. It is attached as exhibit A. I have also included, for the Court’s convenience,  
13 another copy of the deposition testimony regarding exhibit 454 that was included in my  
14 previous declaration as part of exhibit I.

15 I declare under penalty of perjury under the laws of the United States that the  
16 foregoing is true and correct.

17 Executed this 16th day of September, 2014 at Los Angeles, California.

18  
19 \_\_\_\_\_  
20 /s/ *Steven M. Perry*  
21 Steven M. Perry  
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# EXHIBIT A

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**From:** Otellini  
**To:** Eric Schmidt  
**Sent:** 6/3/2007 6:20:00 PM  
**Subject:** FW: Nuts!!!! google hired away one of my good guys.....after we helped him with Site Selection info

Eric, pls see below and do not forward within Goog...Seems unkind to hire our guy after we helped you out by teaching you how we did site selection... my team is pretty teed off.  
paul

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**From:** Leising, Bruce  
**Sent:** Tuesday, May 29, 2007 9:00 AM  
**To:** Baker, Bob  
**Subject:** FW: GSSD Organizational Announcement

FYI, as background. At Paul's request, we did a presentation to Google on our site selection methods. They have now gone and hired our lead guy on it out of CRESD.  
Bruce

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**From:** Das, Sunil K  
**Sent:** Tuesday, May 29, 2007 9:57 AM  
**To:** Leising, Bruce; Haig, Ted V  
**Subject:** FW: GSSD Organizational Announcement

FYI - Leong will be joining Google.  
During our presentation on Intel's SS program to Google in Jan, their VP was impressed and asked where he could hire folks like we have on the team. I wonder if that meeting motivated them to go after our lead guy.

Sunil

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**From:** Trendler, Blain T  
**Sent:** Tuesday, May 29, 2007 5:59 AM  
**To:** Balcom, Rick; Barshaf, Sharon; Brand, Virginia F; Cheng, Allen; Das, Sunil K; Gal, Avidan; Griffin, Patrick G; Gross, Moshe; Groves, Tim; Hart, Esther; Hernandez, Tomas Corp Services; Jacobs, Wallace H; Jaganathan, Swarnalatha; Johnson, Nathan K; Jones, Lee; Kai, David; Kavanagh, Jim N; Kimura, David; Legault, Ray; Lewis, April Z; Liang, Chiew Woei; Loo, Chee Kean; Martin, Jennifer M; McOmber, Matthew J; Moretti, Jack J; Narang, Sanjay R; Nyland, Richard; O'Dwyer, Martin; O'Neill, Ella; Poh, Leong Chin; Reeder, Charles E; Romano, Marcelo A; Spatz, Michael T; Stecker, Robert; Stobetsky, Valentin; Trendler, Blain T; Wheeler, Jeff M; Wong, Jennifer  
**Cc:** Jefferson, Kirby; Schijf, Alan; Levy, Haim; Tan, Wee Theng; Moser, Wangli; Yang, Jeffrey; Palminteri, Nanci S; Martin, Robin; Than, Phu T; Feigelson, Leroy N; Stout, Art A; Ge, Jun; Slater, Greg S; Wong, Hong Eie; Chuah, Cheng Leong; Howarth, Rick A; Wong, Hong Eie; Dean, Murray K  
**Subject:** GSSD Organizational Announcement

It is with mixed emotions that I announce Leong Chin Poh's decision to leave Intel for another opportunity. Leong's last work day, prior to taking his vacation, will be June 15, 2007. His final day will be July 1, 2007.

Leong began his Intel career in 1997 and has been a great asset to Global Site Selection and Development (GSSD) for the last 5 years. He has managed the due diligence team on several projects including A7 in Chengdu, R & D Campuses in Shanghai (Zizhu) and Korea, A9 in Vietnam and most recently Fab 68 in Dalian.

Please join me in thanking Leong for his years of dedication at Intel and wishing him the very best in the future.

Organizational changes to continue to support Intel's site due diligence program will be made in the coming weeks.

Thank you,

Blain Trendler

**EXHIBIT 454**  
Deponent Otellini  
Date 1-29-13  
Gina V. Carbone, CSR

14 | CONFIDENTIAL - ATTORNEYS' EYES ONLY

15 | VIDEO DEPOSITION OF PAUL OTELLINI

16 | January 29, 2013

10:53:21 1 the person who ran our corporate services site selection  
10:53:29 2 process.

10:53:30 3 Q. And who was that second person?

10:53:31 4 A. I don't remember his name at the time.

10:53:33 5 Q. Was it a man or a woman?

10:53:34 6 A. A man.

10:53:41 7 Q. And Renee James is a woman, correct?

10:53:45 8 A. Yes.

10:53:46 9 Q. And when Ms. James informed you of that  
10:53:49 10 incident, did you contact Mr. Schmidt to tell him about  
10:53:53 11 that?

10:53:53 12 A. I think I sent him an email.

10:53:55 13 Q. And why did you send him the email?

10:53:59 14 A. Because I wanted to remind him that it was --  
10:54:01 15 that he was recruiting people that were working on these  
10:54:04 16 joint projects and this was -- this was, I thought, not  
10:54:08 17 in the spirit of our agreement.

10:54:10 18 Q. Is it fair to say that when you -- when you  
10:54:12 19 contacted him or wrote him the email, you wanted  
10:54:15 20 Mr. Schmidt to stop it?

10:54:17 21 A. Yeah. I would prefer he didn't do that. Live  
10:54:20 22 up to what he said, yes.

10:54:22 23 Q. Okay. And I'm sorry, the second incident that  
10:54:32 24 you described, the person was a manager of -- I didn't  
10:54:36 25 get the name of the -- the organization.

10:54:38 1 A. It was -- we have an organization called  
10:54:40 2 corporate services, which has all of our construction  
10:54:43 3 and land and construction activities, site selection,  
10:54:50 4 et cetera.

10:54:52 5 And the background for that was that Google was  
10:54:56 6 in the midst of a large physical expansion of their  
10:55:01 7 sites for data centers and R&D, and they wanted to know  
10:55:06 8 Intel practices. So I offered to send over the person  
10:55:09 9 who did that for Intel. Was a very experienced  
10:55:14 10 engineer. And we told them how we went about selecting  
10:55:17 11 and growing sites. And they liked that person so much  
10:55:26 12 they recruited him, which I didn't think was terribly  
10:55:29 13 fair and kind.

10:55:29 14 Q. And you contacted Mr. Schmidt to express that;  
10:55:31 15 is that fair?

10:55:32 16 A. Yes, I did.

10:55:33 17 Q. And again, when you did that, you wanted  
10:55:37 18 Mr. Schmidt to stop it?

10:55:39 19 A. I wanted him to not disrupt kind of the joint  
10:55:45 20 efforts. What would be my incentive to help Google if  
10:55:49 21 when I send people over there they recruit our best  
10:55:51 22 people.

10:55:52 23 Q. So other than those two incidents, can you  
10:55:54 24 recall any other incident where you learned that Google  
10:55:58 25 wasn't living up to its agreement with you?

01:16:39 1 MR. SAVERI: Thank you. You can put that  
01:16:40 2 aside.  
01:16:42 3 (Whereupon, Exhibit 454 was marked for  
01:16:42 4 identification.)  
01:17:10 5 MR. SAVERI: Q. Mr. Otellini, I've handed  
01:17:12 6 you what's been marked as Exhibit 454. It has the  
01:17:15 7 Bates No. 76616DOC003892.  
01:17:22 8 Do you have that in front of you?  
01:17:23 9 A. Yes, I do.  
01:17:26 10 Q. Do you recognize this document?  
01:17:27 11 A. I do.  
01:17:28 12 Q. Could you tell me what it is, please.  
01:17:31 13 A. It's a chain of emails that starts out with an  
01:17:35 14 organization announcement of an employee leaving. The  
01:17:38 15 next part of the chain is one of the managers of that  
01:17:42 16 organization sending me a note saying that the leaving  
01:17:45 17 employee is joining Google, and pointing out that the --  
01:17:50 18 his belief is that the -- it was a direct result of  
01:17:56 19 Intel helping Google by presenting to them how we do our  
01:18:01 20 site selection program that enticed them to take the  
01:18:04 21 guy.  
01:18:05 22 And then, you know, the email goes on to say  
01:18:08 23 this was part of the request, and it ends with me  
01:18:11 24 sending it to -- a note to Eric at Google saying it  
01:18:15 25 seems unkind to hire the guy that we sent to help you.

01:18:19 1 Q. Now, did you write -- just focusing on the top  
01:18:23 2 of the email, did you write the email to Mr. Schmidt on  
01:18:26 3 or about the date that's indicated there?  
01:18:28 4 A. Yes.  
01:18:29 5 Q. July (sic) 3rd, 2007.  
01:18:30 6 A. I did.  
01:18:31 7 Q. Now, is this the incident regarding the site  
01:18:37 8 selection person that you discussed with me a little bit  
01:18:40 9 earlier today?  
01:18:40 10 A. Yes, it is.  
01:18:59 11 Q. Now, you write, "Eric, please see below and do  
01:19:03 12 not forward within Goog."  
01:19:05 13 Do you see that?  
01:19:05 14 A. Yes.  
01:19:06 15 Q. Why didn't you want Mr. Schmidt to forward this  
01:19:09 16 message within Google?  
01:19:10 17 A. Because I didn't want to make a federal case of  
01:19:12 18 it. I just thought it was terribly unkind. They asked  
01:19:16 19 us to help them, we sent a guy over there who was our  
01:19:20 20 best guy, showed them how we're doing it. He's a  
01:19:23 21 tenured employee, valued employee, and they hired him  
01:19:26 22 away. I didn't think it was the best way to get me to  
01:19:29 23 want to help them anymore.  
01:19:33 24 Q. Again, this communication occurred after your  
01:19:37 25 original communication with Mr. Schmidt --